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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/402,524	10/05/1999	KEITH REYNOLDS WEHMEYER	RCA 88321	6047
7590 01/27/2006			EXAMINER	
JOSEPH S TRIPOLI THOMSON MULTIMEDIA LICENSING INC PO BOX 5312 TWO INDEPENDENCE WAY PRINCETON, NJ 08543			LONSBERRY, HUNTER B	
			ART UNIT	PAPER NUMBER
			2611	
DATE MAILED: 01/27/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/402,524	Applicant(s) WEHMEYER ET AL.	
	Examiner Hunter B. Lonsberry	Art Unit 2611	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see below.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


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Applicant argues that Witek does not receive classified ads from newspapers which may categorize listings in different forms or convert from one set of categories to a master set of categories prior to display, rather the classified as are received from each newspaper in text form and a parsing program is used to convert the text information into data suitable for uploading into a database. Applicant also argues that each database is independent and that the user searches only the database of one newspaper. (Pages 8-9).

Regarding applicant's argument, Witek explicitly states the following at column 18, line 33 "Since as noted above and as illustrated in FIG. 3, the category identification and subcategory identifications 48, 50, respectively, are numerically coded, it is possible, in accordance with the invention, to adjust the descriptions of the categories and subcategories presented to suit the tastes both of the newspaper and/or users of the system. Additionally, where multiple newspapers are provided in the system, use of numerical coding permits different category and subcategory descriptions to be employed for each of the respective newspaper databases without requiring significant change to the database structure." Further beginning at line 46, "In such case, all that are needed are suitable lookup tables to relate the various descriptions presented in the search menus with numerical coding used by the respective databases." Thus it is via lookup tables that conversion is preformed to convert one set of categories (regional classifieds) to a master set of categories. Further, as admitted by applicant, Witek discloses that there are multiple databases maintained, each for a corresponding newspaper (column 22, line 45-column 23, line 4). The claim is silent regarding whether or not separate databases need to be maintained, or whether or not one or more databases are searched. Rather the claim requires conversion of a first code (local description) to a second code (master description) in accordance with equivalence mapping information (the lookup tables disclosed in Witek) for allocating a category in a master set of program categories to said received program category. As Witek clearly discloses lookup tables to convert from a local category description to a master category description, Witek, in combination with Klosterman and Schein teaches each and every element of claim 17.

Applicant argues that there is no motivation to combine Klosterman and Schein with Witek, As Witek doesn't disclose a single database or merging or sorting information from first and second sources. (Page 10)

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Klosterman discloses a system in which EPG information (database entries) from different sources are tagged with colors. Schein is directed to an EPG system (database entries) with categories. Witek discloses a system that is directed to collating listings (database entries) from different sources, and converting the category of each listing to a common category. Witek is merely relied upon to teach conversion of program categories to a master program category, thus facilitating uniformity amongst common subject matter and making it easier to find desired content. It would have been obvious to one skilled in the art at the time of invention to combine the EPG systems of Schein and Klosterman with the conversion features of Witek in order to display the listings from various sources in common categories for easy retrieval and viewing by a user.

Applicant argues that Witek is non-analogous art to Klosterman and Schein nor does it contain the same search classifications, nor would one working in the television field look to even relate to classified advertising (Pages 10-11).

In response to applicant's argument that Witek is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Klosterman discloses a system in which EPG information (database entries) from different sources are tagged with colors. Schein is directed to an EPG system (database entries) with categories. Witek discloses a system that is directed to collating listings (database entries) from different sources, and converting the category of each listing to a common category. Further, Klosterman, Schein and Witek are all concerned with the same problem, namely the retrieval and presentation of records to a user. All three references utilize database systems and are thus analogous art.

Applicant Argues that Terasawa fails to teach EPG data that is formed to be compatible with an MPEG standard, and that the data must be MPEG encoded as claimed in claim 23 (Page 13).

Regarding applicant's argument, Claim 23 is silent regarding any language which requires the program guide information and composite program guide information being MPEG encoded. Rather the claim requires that the data are formed to be compatible with an MPEG standard. As admitted by Applicant, Terasawa discloses assigning MPEG PIDs to EPG data, which is multiplexed as part of an MPEG stream, and as such the data is compatible with the MPEG standard.

Applicant argues that Hofmann fails to teach "a capability to allow a user to sort the program content shown in the composite program guide based on source" as recited in claim 34. (Pages 13-14)

Regarding Applicant's argument, Claim 34, merely requires a capability to sort the content by source. Hoffman clearly shows in Figure 9a, a program guide that sorts and displays programs by source, for example CATV, Telcos and DBS, thus enabling a user to easily find a program of interest. Thus Hofmann, in combination with Klosterman, Schein and Witek teaches each and every element of claim 34.